

HOUSE COMMITTEE ON JUDICIARY

A g e n d a

Meeting No. 18

DATE:	Thursday, March 9, 2006
TIME:	15 Minutes upon Adjournment
PLACE:	Room 125 Annex

1. Call to order and roll call.
2. **HB 443, AN ACT relating to judicial retirement. A. Arnold, J. Gray**

Amend KRS 21.370 to increase the maximum number of years for service credit eligible to be received for each year of qualifying service; allow an active and vested member of the Judicial Retirement Plan to receive service credit for service to an in-state institution of learning; set maximum number of years; establish requirements for purchase of service credit.

3. **HB 700, AN ACT relating to medical malpractice. R. Wilkey**

Amend KRS 304.13-051 to require filing of medical malpractice insurance rates with the Office of Insurance; create new sections of Subtitle 13 of KRS Chapter 304 to prohibit certain components from being included in a medical malpractice rate filing; restrict premiums for medical malpractice policies covering health care providers who deliver one or more babies per year; require the executive director of insurance on or before April 1 of each year to determine if there are any medical specialties in the state which are essential as a matter of public policy and which must be protected from certain adverse actions relating to medical malpractice insurance that may impair the availability of these essential medical specialties to residents of this state; direct the executive director to provide the list of essential medical specialties to each insurer that issues medical malpractice coverage to health care providers practicing in any of the essential medical specialties; require an insurer that intends to cancel, terminate, or otherwise not renew a medical malpractice policy of an essential medical specialist to provide 120 days notice to the health care provider and allow the executive director to delay the insurer's intended action for up to 60 days if the executive director determines a replacement policy is not readily available; require an insurer that intends to cancel, terminate, or otherwise not renew all medical malpractice policies issued to essential medical specialists to provide 120 days notice to the executive director and the health care providers and allow the executive director to delay

the insurer's intended action for up to 60 days if the executive director determines replacement policies are not readily available; designate medical specialties until the executive director acts to designate specialties; require the executive director to collect certain information from insurers to make certain an insurer issuing policies of medical malpractice insurance is complying with applicable standards for rates; create a new section of KRS Chapter 454 to provide that in a medical malpractice civil action any statements, affirmations, gestures, or conduct expressing apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence that are made by a health care provider or employee of the health care provider to the alleged victim, relative of the alleged victim, or representative of the alleged victim that relate to the discomfort, suffering, injury or death of the alleged victim as a result of unanticipated outcome of medical care shall be inadmissible as evidence of an admission of liability; create a new section of KRS Chapter 454 to require the plaintiff to file an affidavit of an expert witness as part of a complaint in a civil action alleging professional negligence against a health care provider; require the affidavit to specify at least one negligent act or omission and the factual basis for the claim; require a defendant who disputes liability to file an affidavit of a qualified expert; create a new section of KRS Chapter 454 to require that a lawsuit against a health care provider be submitted to mediation to be held within 180 days after all responsive pleadings are filed; create new sections of Subtitle 40 of KRS Chapter 304 to establish the Kentucky Physician's Mutual Insurance Authority to provide medical malpractice insurance to physicians; provide that the authority is a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth; provide for a board of directors which shall function in a manner similar to the governing body of a mutual insurance company; direct the board to hire a manager who shall have proven successful experience for a period of at least five years as an executive at the general management level in insurance operations or in the management of a state fund for medical malpractice; establish powers and duties of the manager; require the authority to provide medical malpractice insurance to any physician who pays the premium and complies with any other qualifications and conditions adopted by the authority; require the authority to provide coverage to any physician who is unable to secure coverage in the voluntary market unless the physician owes undisputed premiums to a previous medical malpractice carrier or to a medical malpractice residual market mechanism; direct the authority to establish separate rating plans, rates, and underwriting standards for different classes of risks; require rates to be based only on Kentucky experience; authorize the board to declare an annual dividend and distribute it in the form of premium discounts, dividends, or a combination of discounts and dividends if certain conditions are met; require a quarterly report of assets and liabilities to be provided to the board, the Governor, and the Legislative Research Commission; require the board to file an annual report indicating the business done in the previous year and deliver the report to the Governor, commissioner of the Department of Insurance, Auditor of Public Accounts, Attorney General, and co-chairs of the Legislative Research Commission; prohibit the authority from entering into a contract for an audit unless the Auditor of Public Accounts has turned down a request to perform the audit; provide that if the assets of the authority are less than its liabilities, the board may levy an assessment on its policyholders; require the board to formulate and adopt an investment policy; require the manager to compile and maintain statistical and actuarial data; prohibit the authority from receiving any direct

state general fund appropriation; provide that upon request of the board, the Governor and the secretary of the Finance and Administration Cabinet may determine additional initial funding which may include a loan from an existing state agencies not to exceed (\$7,000,000); authorize the issuance of revenue bonds not to exceed (\$40,000,000) upon approval of the secretary of the Finance and Administration Cabinet; provide that the authority may utilize only agents duly and legally licensed and in good standing with the provisions of this chapter; exempt board members, the manager, and any employee from being held personally liable for acts taken in official capacity; require the board, manager, and employees to comply with the Executive Branch Code of Ethics; prohibit the authority from participating in any plan, pool, association, guarantee, or insolvency fund required by KRS Chapter 304; require the board to comply with the open meetings and open records laws; direct the Attorney General and the Auditor of Public Accounts to monitor operations of the authority and authorize each to make examinations or investigations of the operations, practices, management, and other matters of the authority; require the Attorney General and the Auditor of Public Accounts to report jointly to the General Assembly in January in each even-numbered year in which the General Assembly convenes in a regular session the results of their monitoring activities.

Adjournment

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